

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

DAVID LEROY CUNNINGHAM,  
Petitioner,  
vs.  
STATE OF WASHINGTON,  
SECRETARY OF DOC,  
Respondent.

NO. CV-10-302-JLQ  
ORDER TO DISMISS ACTION

By Order filed October 1, 2010, the court advised Mr. Cunningham of the deficiencies of his habeas corpus petition, and directed him to amend within sixty (60) days. The court cautioned Mr. Cunningham that failure to amend as directed would be construed as his consent to dismissal of this action. Petitioner is proceeding *pro se* and *in forma pauperis*; Respondent has not been served. Petitioner has filed nothing further in this action.

For the reasons set forth in the court's previous Order, **IT IS ORDERED** this habeas action is **DISMISSED without prejudice** for failure to exhaust each of his claims for federal habeas relief in the Washington State Supreme Court. *Granberry v. Greer*, 481 U.S. 129, 134 (1987); *Roettgen v. Copeland*, 33 F.3d 36, 38 (9th Cir. 1994); *Bland v. Calif. Dept. of Corrections*, 20 F.3d 1469, 1472 (9th Cir. 1994).

**IT IS SO ORDERED.** The District Court Executive shall enter this Order, enter judgment dismissing the Petition and the claims therein without prejudice, forward

ORDER DISMISSING HABEAS ACTION -- 1

1 copies to Petitioner and close the file. The court further certifies that pursuant to 28  
2 U.S.C. § 1915(a)(3), an appeal from this decision could not be taken in good faith, and  
3 there is no basis upon which to issue a certificate of appealability. 28 U.S.C. § 2253(c);  
4 Fed. R.App. P. 22(b).

5 **DATED** this 7<sup>th</sup> day of December 2010.

6 s/ Justin L. Quackenbush  
7 JUSTIN L. QUACKENBUSH  
8 SENIOR UNITED STATES DISTRICT JUDGE  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27